

REMARKS/ARGUMENTS

By the *Office Action* of 10 December 2008, Claims 1-21 are pending in the Application, and all rejected. Applicant thanks Examiner with appreciation for the careful consideration and examination given to the Application.

Applicant submits this *Response and Amendment* solely to facilitate prosecution. As such, Applicant reserves the right to present new or additional claims in this Application that have similar or broader scope as originally filed. Applicant also reserves the right to present additional claims in a later-filed continuation application that have similar or broader scope as originally filed. Accordingly, any amendment, argument, or claim cancellation presented during prosecution is not to be construed as abandonment or disclaimer of subject matter.

By the present *Response and Amendment*, some of the Claims are clarified. No new matter is believed presented, and all pending Claims believed allowable.

1. The Present Claims

Amended Claims 1 and 8 are based on original Claims 1 and 8, in combination with original Claim 3 (and Claim 2 as it relates to Claim 1), to which has been added information on the adhesive pattern, the amount of adhesive, and the selection of the top layer material, being of a fraying-free, and knitted fabric. The various recitations not found in the Claims can be found in the *Specification* as originally filed.

As discussed in more detail hereinafter, it is the combination of these features that allow for the production of a multilayer washable material, which can be cut to the desired shape, without suffering from delamination and without having to undergo an edge finishing step.

2. The Claim Rejections

The Examiner rejects Claims 1-21 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Claims 11 and 13 are rejected for additional grounds under 35 U.S.C. §112, second paragraph.

Applicant clarifies pending Claims 1, 8, 11 and 13. It is believed the clarified Claims overcome the Examiner's §112, second paragraph rejections.

In the *Office Action*, Claims 1-2, 8 and 19-20 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,114,418 to Levy. Claims 1, 2, 4-6, 8-10, 13-14 and 18-20 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent Publication No. 20010001300 to Tolbert et al. Claims 1-10, 13-15 and 18-21 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,306,267 to Hahn et al. in view of Levy and Tolbert et al. Claims 11-12 and 16-17 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hahn et al. in view of Levy and Tolbert et al., and further in view of U.S. Patent No. 4,911,948 to McIntyre.

It is respectfully submitted that Claims 1 and 4-21 are novel and non-obvious over the cited references, as none, alone or in combination, disclose, teach or suggest the invention of Claims 1 and 8, nor the Claims ultimately dependent from Claims 1 and 8.

Levy discloses a highly absorbent, leak-proof, breathable, durable and re-useable diaper having a moisture-absorbing top-layer and a moisture impermeable intermediate layer. On the other hand, the result of this configuration of a moisture-absorbing top-layer and a moisture impermeable intermediate layer will be that the user of such a diaper will be in contact with the moist upper layer, despite the excellent absorbing qualities of terry cloth. It would not do at all to use such layer systems for bed-ridden patients.

Applicant addressed the problem of poor moisture permeability of the top-layer as a result of it being adhered to a moisture absorbing intermediate layer. This problem does not occur in the diapers of Levy. Indeed, any form of adhesion of the terry cloth to the polyurethane film is suitable. Thus, even as a secondary reference, this document provides no teaching in the direction of the current invention. Indeed, for the diaper of Levy, the use of a cross-hatch, line-gravure or dot-roller is all rather similar, as long as the resulting laminations remain intact after machine washings. In the current invention, however, not only is the problem of delamination addressed, but also inflexibility, wrinkling and permeability loss of the moisture permeable top layer. This is done by using a pattern and an amount of adhesive, as recited in the clarified claims.

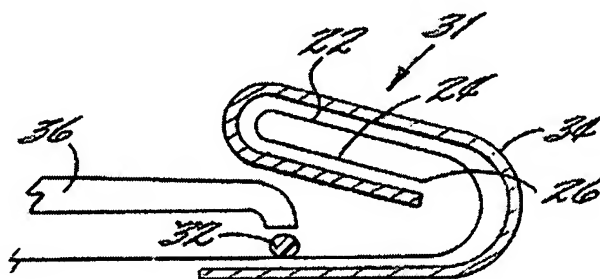
The currently clarified claims are therefore novel and inventive over Levy.

Applicant has discussed Tolbert et al. in its previous *Response*. It appreciates the effort the Examiner has made to clarify the positions made in the previous Office Action, which helps the Applicant to better distinguish its invention from that of Tolbert et al.

Thus, it would appear that the Examiner, on the basis of the definition of “adjacent” as defined by Merriam-Webster, is of the opinion that ¶ 0015, middle of the paragraph of Tolbert et al. concerns a securing of textile fabrics to one another, similar to what Applicant does.

Applicant respectfully requests reconsideration.

Tolbert et al. addresses the issue of durable adhesive seams to secure the textile fabrics to one another. This is illustrated in the following figure from the *Specification*:



It will be appreciated that in this reference an actual seam is made around the edge of the textile article. This is therefore a form of edge finishing that the Applicant wishes to avoid. Edge-finishing, as is done by Tolbert et al., has the advantage that the layers are securely adhered to one another with little need of adhesive material anywhere else but around the edge. It does suffer from the disadvantage, however, that the lesser amount of adhesive results in wrinkling. In this respect, please note that the use of a decorative pattern such as a quilted look across the surface of the fabric is insufficient to prevent wrinkling.

More important, however, is that the textile articles as prepared by Tolbert et al. cannot be cut to shape afterwards. The edge-finishing would be removed, resulting in a quickly delaminating product. This problem of delamination, but also inflexibility, wrinkling and permeability loss of the moisture permeable top layer has been addressed by providing an adhesive material in the manner and amount as recited in the clarified Claims 1 and 8. A further feature added to the clarified claims concerns the use of a fraying-free fabric. This, in

combination with the appropriate application of adhesive material, ensures that the multilayer material may be cut to shape and that no edge-finishing is needed.

It is emphasized that Applicant does not claim applying the adhesive only along the edges, to create a border. This would indeed be similar to the teaching of Tolbert et al. Rather; Applicant came to an entirely different solution with an application of the adhesive in a manner sufficiently dense to prevent wrinkling, without creating problems in respect of flexibility and permeability.

Thus, Tolbert et al. teaches and motivates readers to prepare textile products having an edge-finishing. The Applicant teaches and motivates readers to avoid edge-finishing. The clarified claims are therefore both novel and non-obvious Tolbert et al.

In paragraphs 11 and 12 of the *Office Action*, it is alleged that the previously presented Claims are obvious over Hahn et al. in view of Levy and Tolbert et al. Hahn et al. indeed discloses a reusable diaper. As may be seen in the Examples, Hahn et al. uses stitching, not adhesives, to join the various panels together. Indeed, (see column 9, lines 64-66) “If the fabric comprising VISCOSE® was not stitched on both sides it would have twisted in the laundering process.” The skilled reader of Hahn et al. therefore has no reason or motivation to replace stitching by use of an adhesive composition. Moreover, since Hahn et al. stitches the outer layers onto each other, as discussed hereinafter, it clearly discloses edge-finishing.

Moreover, the skilled reader of Hahn et al. would not have turned to Levy. The diaper of Hahn et al. and the diaper of Levy are very different from each other. Thus, Levy has a top layer that is moisture absorbing, and an intermediate layer that is leak-proof. In the diaper of Hahn et al., the intermediate layer is moisture absorbing and the bottom layer is leak-proof. If the skilled reader of Hahn et al. would have turned to Levy for teachings in respect of the joining of a top layer material that should be able to transport moisture away from the skin (i.e., not Terry cloth) onto a moisture absorbing layer, he or she would have found nothing.

In the alternative, should the skilled reader of Hahn et al. turn to Tolbert et al., then the message would be to use edge-finishing, which coincides with the teachings of Hahn et al. Indeed, when considering Figure 1 and Example 1 of Hahn et al., it is clear that front and back panels 12 and 16 are attached to one another along the edge. Turning to Example 1 of Hahn et

al., the nylon taffeta fabric was stitched to the COOL MAX® fabric. This is clearly a form of edge-finishing.

Once again, it is emphasized that the Applicant does not merely apply the adhesives along the edge to create a border. The application of adhesive material to the edges of each surface on a multilayered material is therefore not equivalent to Applicant's patterned application of an adhesive composition in the claimed amount.

Applicant appreciates that Levy and Tolbert et al. are used as teaching references. Applicant's position, however, is that Levy is a remote teaching, which a skilled reader would not have applied when dealing with a multilayer washable material having a top layer that should be moisture permeable, flexible, and free of wrinkles. A person skilled in the art has no motivation at all to turn to Levy, given the advantages of Hahn et al. (holding rash-causing moisture away from the skin).

Moreover, Applicant's position is that Tolbert et al. provides textile articles that exhibit good seam strengths, durability and desirable aesthetics, because it has edge-finishing, which is diametrically opposed to the current teachings. Should a person skilled in the art be motivated to combine the above references, then it would likely be a diaper having front and back panels adhered to each other in some form of edge-finishing. Given the incompatibility of the diapers of Levy and Hahn et al., it is hard to predict whether the intermediate layer would be leak-proof or moisture absorbent.

Claims 11-12 and 16-17 are rejected as being obvious over Hahn et al. in view of Levy and Tolbert et al., and further in view of McIntyre. With the Examiner, the Applicant agrees that McIntyre discloses a method of screen printing of hot melt adhesives onto moving web substrates. McIntyre, however, is silent on the amount of hot melt pressure sensitive adhesives and/or that it should be applied in an amount sufficient to prevent wrinkling without adversely affecting the flexibility and permeability of the top layer material. This information is not found in Hahn et al., Levy or Tolbert et al. Thus, even if McIntyre is used as a teaching reference, combined with the references disclosed above, it would still not disclose all the features of the present invention.

In addition, it is neither illustrated nor obvious how to combine the teachings of McIntyre with that of Tolbert et al. (disclosing the application of an adhesive along the edge) to give good

seam strength. It is neither illustrated nor obvious to combine the screen printing of McIntyre with the stitching of Hahn et al. Finally, a person skilled in the art might have combined the screen printing of McIntyre with the teachings of Levy, however only to produce highly absorbent, leak-proof and breathable diapers of little use when concerned about contact of moist with skin.

It is thus respectfully submitted that Claims 1 and 8, and all Claims ultimately dependent from Claims 1 and 8, are patentable over all the cited references.

3. Fees

This *Response and Amendment* is being filed within six months of the *Office Action*, and more specifically within three months. Thus, no extension of time fee payments is believed due.

No additional claims fees are believed due, as the pending claim count as to both total number of claims, and independent claims, remain covered under the original filing fee.

Nonetheless, authorization is hereby expressly given to charge any fees due via deposit account No. 20-1507.

CONCLUSION

By the present *Response and Amendment*, this Application has been placed in full condition for allowance. Accordingly, Applicant respectfully requests early and favorable action. Should the Examiner have any further questions or reservations, the Examiner is invited to telephone the undersigned Attorney at 404.885.2773.

Respectfully submitted,

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